

**TRANSMITTAL AND NOTICE OF APPROVAL OF  
STATE PLAN MATERIAL**  
FOR: HEALTH CARE FINANCING ADMINISTRATION

1. TRANSMITTAL NUMBER:

0 4 — 2 3

2. STATE:

Maryland

3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL  
SECURITY ACT (MEDICAID)

Medicaid

TO: REGIONAL ADMINISTRATOR  
HEALTH CARE FINANCING ADMINISTRATION  
DEPARTMENT OF HEALTH AND HUMAN SERVICES

4. PROPOSED EFFECTIVE DATE

February 1, 2004

5. TYPE OF PLAN MATERIAL (Check One):

☐ NEW STATE PLAN☐ AMENDMENT TO BE CONSIDERED AS NEW PLAN☒ AMENDMENT

COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)

6. FEDERAL STATUTE/REGULATION CITATION:

7. FEDERAL BUDGET IMPACT:

a. FFY 2004 \$(1.5M)

b. FFY 2005 \$(2.2M)

8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT:

Attachment 4.19A&amp;B, Psge 6

9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION  
OR ATTACHMENT (If Applicable):

Attachment 4.19 A&amp;B, Page 6 (04-08)

10. SUBJECT OF AMENDMENT:

Change the method for determining the estimated acquisition cost used to reimburse  
pharmacies for the drug portion of prescriptions for Medicaid recipients.

11. GOVERNOR'S REVIEW (Check One):

☐ GOVERNOR'S OFFICE REPORTED NO COMMENT☐ COMMENTS OF GOVERNOR'S OFFICE ENCLOSED☐ NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL☒ OTHER, AS SPECIFIED:Susan J. Tucker, Executive Director  
Office of Health Services

12. SIGNATURE OF STATE AGENCY OFFICIAL:

*Nelson J. Sabatini*

13. TYPED NAME:

Nelson J. Sabatini

14. TITLE: Secretary, Department of Health  
and Mental Hygiene

15. DATE SUBMITTED:

March 18, 2004

16. RETURN TO

Susan J. Tucker, Executive Director  
DHMH - OHS  
201 W. Preston St., Ste 124  
Baltimore, MD 21201

17. DATE RECEIVED:

March 22, 2004

18. DATE APPROVED:

April 21, 2004

PLAN APPROVED - ONE COPY ATTACHED

19. EFFECTIVE DATE OF APPROVED MATERIAL:

February 1, 2004

20. SIGNATURE OF REGIONAL OFFICIAL:

*Mary T. McSorley*

21. TYPED NAME:

Mary T. McSorley

22. TITLE: Associate Regional Administrator  
Division of Medicaid & Children's Health

23. REMARKS:

- (a) The Estimated Acquisition Cost (EAC) which is the lowest price of a drug product as determined by the following criteria;
- (i) Wholesale Acquisition cost (WAC) plus eight percent;
  - (ii) Direct price plus eight percent;
  - (iii) Distributor's price plus eight percent; or
  - (iv) Average Wholesale Price (AWP) less twelve percent
- (b) Federal Generic Upper Limit (FGUL) which is the upper limit of payment for a multiple source drug for which a specific maximum allowable cost has been established by the Center for Medicare and Medicaid Services (CMS) of the Department of Health and Human Services;
- (2) For all other prescribed drugs, and schedule V cough preparations, the allowable cost shall be the EAC established by the Department, as described in (b) above.
- (3) Notwithstanding the provisions of (1) above, when a prescriber certifies in his own handwriting that, in his

TN# 04-23 Approved Date APP 21 2004 Effective Date FEB. 1, 2004  
Supersedes TN# 04-08

FEDERAL REGULATION CITATIONS:

Attachment 2.2 A 42 CFR 435.10

Attachment 2.6 A 42 CFR Part 435, Section 435.10 and Subparts G & H AT-78-90, AT-80-6, AT-80-34 1902(l) and (m) of the Act, P.L. 99-509 (Secs. 9401 and 9402), 1902(l) and (m) and 1920 of the Act, P.L. 99-509 (Secs. 9401, 9402, and 9407)

Attachment 3.1 A Part 400, Subpart B and 1902(e)(5), 1905(a)(18) through (20), and 1920 of the Act, P.L. 99-272 (sections 9501, 9505 and 9526) and 1902(a), 1902(e)(47), 1902(e)(7) through (9), and 1920 of the Act, P.L. 99-509 (sections 9401(d), 9403, 9406 through 9408) and P.L. 99-514 (section 1895(c)(3))

Attachment 3.1 B 42 CFR Part 440, Subpart B, 42 CFR 441.15, AT-76-90, AT-80-34

Attachment 3.1 C 42 CFR 431.53, AT-78-90

Attachment 3.1 F 1905(a)(24) and 1930 of the Act, P.L. 101-508 (Section 4712 OBRA 90)

Attachment 4.18 A 447.51 through 447.54

Attachment 4.18 C 447.51 through 447.53

✓ Attachment 4.19 A & B (a) 42 CFR 447.252, 46 FR 44964, 48 FR 56046, 50 FR 23009, 1902(e)(7) of the Act, P.L. 99-509 (section 9401(d))  
(b) 42 CFR 447.201, 42 CFR 447.302, AT-78-90, AT-80-34, 1903(a)(1) and (n) and 1920 of the Act, P.L. 99-509 (Section 9403, 9406 and 9407), 52 FR 28648

Attachment 4.16 42 CFR 431.615(c) AT-78-90

Attachment 4.19 D (d) 42 CFR 447.252, 47 FR 47964, 48 FR 56046, 42 CFR 447.280, 47 FR 31513, 52 FR 28141

Attachment 4.22 A (a) 433.137(a), 50 FR 46652, 55 FR 1423

Attachment 4.22 B (b) 433.138(f), 52 FR 5967, 433.138(g)(1)(ii) and (2)(ii), 52 FR 5967, 433.133(g)(3)(i) and (iii), 52 FR 5967, 433.133(h)(4)(i) through (iii), 52 FR 5967

Attachment 4.22 C Section 1906 of the Act

Attachment 4.26 1927(g) 42 CFR 456.700, 1927(g)(1)(A), 1927(g)(1)(a) 42 CFR 456.705(b) and 456.709(b), 1927(g)(1)(B) 42 CFR 456.703(d) and (f), 1927(g)(1)(D) 42 CFR 456.703(b), 1927(g)(2)(A) 42 CFR 456.705(b), 1927(g)(2)(A)(i) 42 CFR 456.705(b), 1927(g)(2)(A)(ii) 42 CFR 456.705(b), (1)-(7), 1927(g)(2)(A)(iii) 42 CFR 456.705(c) and (d), 1927(g)(2)(B) 42 CFR 456.709(a), 1927(g)(2)(C) 42 CFR 456.709(b), 1927(g)(2)(D) 42 CFR 456.711, 1927(g)(3)(A) 42 CFR 456.716(a), 1927(g)(3)(B) 42 CFR 456.716 (A) and (B), 1927(g)(3)(C) 42 CFR 456.716(d) 1927(g)(3)(C) 42 CFR 456.711 (a)-(d), 1927(g)(3)(D) 42 CFR 456.712 (A) and (B), 1927(h)(1) 42 CFR 456.722, 1927(g)(2)(A)(i) 42 CFR 456.705(b), 1927(j)(2) 42 CFR 456.703(c)

Attachment 4.32 A (a) 435.940 through 435.960, 52 FR 5967

Attachment 4.33 A (a) 1902(a)(48) of the Act, P.L. 99-570 (Section 11005), P.L. 100-55 (Section 5(a)(3))

Attachment 4.35 A (a) 1919(b)(1) and (2) of the Act, P.L. 100-203 (Section 4212(a))

Attachment 4.35 B (b) Same as above